

CHARGE: 402(b)(1)—when shipped, a valuable constituent, egg solids, had been in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Not guilty.

DISPOSITION: On 3-26-62, the defendants filed a motion to dismiss the information, and on 9-6-62, the court denied such motion. Thereafter, trial of the case was had before the court and was concluded with the jury's verdict of guilty against the defendants with respect to 4 of the 6 counts of the information. On 2-1-63, the court fined each defendant \$2,000.

28821. Egg noodles. (F.D.C. No. 47894. S. Nos. 16-033 T, 24-233 T.)

INFORMATION FILED: 11-19-62, W. Dist. Ky., against Delmonico Foods, Inc., Louisville, Ky., and Peter J. Viviano, president.

SHIPPED: 11-21-61 and 12-21-61, from Louisville, Ky., to Cincinnati and Cleveland, Ohio.

LABEL IN PART: (Bags) "DELMONICO Vitamin Enriched 12 Ounces Net PURE EGG NOODLES MADE BY DELMONICO FOODS, INC., LOUISVILLE, KENTUCKY Made from Fancy Flour and 5½% Egg Yolk Solids" and "NET WEIGHT 1 LB. FISHER'S ENRICHED PURE EGG NOODLES 5½% Egg Solids DISTRIBUTED BY THE FISHER BROS. CO."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, namely, egg solids, had been in part omitted from the article; and 403(a)—the statements "Made from Fancy Flour and 5½% Egg Yolk Solids" and "5½% Egg Solids" which appeared on the labeling were false and misleading in that they represented and suggested that the article contained 5½ percent egg or egg yolk solids whereas the food contained less than 5½ percent egg or egg yolk solids; and 403(g)(1)—the article purported to be and was represented as egg noodles, a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Nolo contendere.

DISPOSITION: 3-25-63. \$1,000 fine.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28822. Wheat. (Inj. No. 331.)

COMPLAINT FOR INJUNCTION FILED: 2-13-58, Dist. N. Dak., against Equity Elevator & Trading Co. of Hickson, a corporation, Hickson, N. Dak., and Oscar Gilbertson, plant manager.

CHARGE: The complaint alleged that the defendants were engaged in the operation of a plant at Hickson, N. Dak., for the storage and distribution of a food, wheat for human consumption, and were shipping into interstate commerce at Hickson, N. Dak., wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4); that the food consisted in part of filthy substances by reason of the contamination of the food with rodent, insect, and bird filth, and of a decomposed substance by reason of the presence of moldy wheat; and the food was being held at the defendant's plant at Hickson, N. Dak., under insanitary conditions whereby it may have become contaminated with filth.